

## REMARKS

Reconsideration of the above-identified application in view of the amendment above and the remarks below is respectfully requested.

Claims 71-73 have been canceled in this paper. Claims 70, 74, 75 and 77 have been amended in this paper. No new claims have been added in this paper. Therefore, claims 70, 74-80 and 82-83 are pending and are under active consideration.

Claims 70-76 and 82-83 stand rejected under 35 U.S.C. 103(a) "as being unpatentable over Mello et al in view of Williams et al essentially for reasons of record as set forth in paragraph 1 of the previous action with these additional comments."

Applicant has cancelled claim 81 requiring the first and second elements of each web to be made of a rigid plastic material and placed this limitation into independent claim 70. Independent claim 75 has been likewise amended to include this limitation. However a close reading of the primary reference shows that such is either taught therein or clearly obvious thereover. Note that Mello et al refers to part numeral 36 as a lid or cover and part numeral 30 as a tray or container-- see col. 3 lines 59-61. At col. 1, lines 13-15, the exact nature of such elements are disclosed in relation to a discussion of the prior art. Namely, they constitute a rigid container as the tray portion (30) and a rigid plastic or foil top as the cover. Clearly, if Mello et al appreciates that these elements are known in the prior art as rigid plastics that are subsequently sealed, then it would have been obvious to have used such rigid plastics as the first and second elements of each web in the inventive process of Mello et al. Mello et al is also teaching the equivalence of sealing a rigid top to a rigid container or a foil top to a rigid container in the discussion of the prior art, since the same machines are used to seal these elements. Hence, one of ordinary skill in the art would expect that flexible or foil lids would be sealed in the same manner as rigid tops. It clearly would have been obvious to have made the container of Mello et al from two rigid plastic elements. Williams et al is applied for reasons of record, teaching the equivalence of roller nips and opposed platens. Although Williams et al may be laminating a flexible plastic, Mello et al has already shown the equivalence in the art of flexible or rigid

tops. Also, applicant should be well aware that the terms “rigid” and “flexible” are relative and would be subject to a certain degree of interpretation in the art.

Later in the Office Action, the Patent Office states the following:

Applicant’s arguments filed June 19, 2009 have been fully considered but they are not persuasive. Applicant submits that Mello et al does not teach both elements of the package being made out of a rigid plastic. While certain parts of the disclosure of Mello et al are directed to a foil cover, the reference also teaches rigid plastic tops and that such would be sealed to rigid containers using similar equipment as that employed in sealing foil tops to rigid container bottoms. Hence, it is submitted that one of ordinary skill in this art would understand that a rigid plastic would have been substituted for a foil as the top element. Also, it would appear from the discussion of the prior art in Mello et al that processes and machines used to seal rigid containers to rigid tops would also be used to seal rigid containers to flexible foil tops. Hence, the combination with Williams et al is submitted to be valid. It is immaterial that Williams et al packages a substance different than that packaged in Mello et al. One of ordinary skill in the art would recognize that different materials would be placed in whatever packaging deemed to be most expeditious.

Insofar as the subject rejection relates to claims 71-73, the rejection is moot in view of Applicants’ cancellation of claims 71-73 in this paper. Insofar as the subject rejection relates to claims 70, 74-76 and 82-83, Applicants respectfully traverse the subject rejection.

Claim 70, from which claims 74, 76 and 82-83 depend, has been amended herein to include the limitations of canceled claim 73. As such, claim 70 now recites “[a] method of forming a laminate structure, said method comprising the steps of:

(a) providing a first web, said first web comprising a plurality of first elements, wherein said first elements of said first web are made of a rigid plastic;

(b) providing a second web, said second web comprising a plurality of second elements, said second elements being alignable with said plurality of first elements, wherein said second elements of said second web are made of a rigid plastic and wherein at least one of said first web and said second web is made by continuous rotary extrusion molding;

(c) passing said first web and said second web through a lamination nip to fixedly join said first elements and second elements, whereby a laminate structure is formed.”

Claim 70 is not rendered obvious over Mello et al. in view of Williams et al. for at least the reason that Mello et al. and Williams et al., whether taken individually or in combination, do not teach or suggest a method of forming a laminate structure that comprises, amongst other things, providing a first web and a second web, the first web comprising a plurality of first elements made of a rigid plastic, the second web comprising a plurality of second elements made of a rigid plastic, **wherein at least one of said first web and said second web is made by continuous rotary extrusion molding**, and passing the first and second webs through a lamination nip to fixedly join the first and second elements.

Mello et al. relates to a vacuum seal station for use in a vacuum packaging machine for packaging meat products. The vacuum packaging machine of Mello et al. includes a thermoforming apparatus 14 for making lower containers 30 and also includes a thermoforming station 18 for making lids 36, containers 30 and lids 36 being sealed to one another at a station 20. There is absolutely no teaching or suggestion in Mello et al. that containers 30 and/or lids 30 may be made by a process other than by thermoforming, and there is certainly no teaching or suggestion that containers 30 and/or lids 30 may be made by continuous rotary extrusion molding. Williams et al.,

which relates to a method of making flexible packaging, also does not teach or suggest continuous rotary extrusion molding and, therefore, fails to provide this missing teaching from Mello et al.

In addition, as apparently acknowledged by the Patent Office, Mello et al. fails to teach or to suggest the passage of the first and second webs through a lamination nip to fixedly join the first and second elements. Nevertheless, in an attempt to remedy this deficiency, the Patent Office looks to Williams et al., the Patent Office apparently contending that Williams et al. teaches the equivalence of lamination nips and platens and the Patent Office apparently also contending that it would have been obvious to use the lamination nips of Williams et al. in Mello et al. Applicants respectfully disagree. Williams et al. is specifically limited to the manufacture of flexible packaging for non-solid materials. In fact, Williams et al. states the following at col. 2, lines 52-54:

The **flexible** packaging procedures involved herein apply to a variety of different materials which may be packages, **as long as they contain a liquid component.** (Emphasis added.)

In contrast to Williams et al., Mello et al. is directed at a **rigid** packaging system for **solid** materials, specifically meat products. While Applicants agree with the Patent Office's assertion that "the terms 'rigid' and 'flexible' are relative and would be subject to a certain degree of interpretation in the art," Applicants respectfully submit that a person of ordinary skill in the art would have understood the "flexible" packaging of Williams et al. to be sufficiently dissimilar from the "rigid" packaging of Mello et al. to preclude giving serious consideration to using the lamination nip of Williams et al. to join together the rigid elements of Mello et al. Contrary to the Patent Office's suggestion, Williams et al. does not teach or suggest that assembly techniques usable with flexible container tops and bottoms are necessarily usable with rigid container tops and bottoms.

Claim 75 is patentable over Mello et al. and Williams et al. for at least the same reasons discussed above in connection with claim 70.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claims 77-80 stand rejected under 35 U.S.C. 103(a) "as being unpatentable over Mello et al in view of Williams et al and Anderson, III et al for reasons of record as set forth in paragraph 2 of the previous action and paragraph 1, supra."

Applicants respectfully traverse the subject rejection. Claims 78-80 depend from claim 77. Claim 77 is patentable over Mello et al. and Williams et al. for at least the reasons given above. Anderson III et al. fails to cure all of the deficiencies of Mello et al. and Williams et al. with respect to claim 77. Therefore, claims 77-80 are patentable over the applied references.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

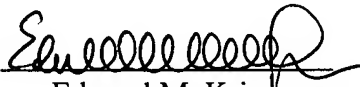
In conclusion, it is respectfully submitted that the present application is now in condition for allowance. Prompt and favorable action is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is

required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.

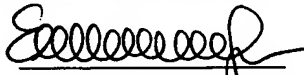
Respectfully submitted,

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Dated: February 10, 2010

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 10, 2010.

  
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